

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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<p>STURGIS MOTORCYCLE RALLY, INC., Plaintiff, vs. RUSHMORE PHOTO &amp; GIFTS, INC.; JRE, INC., CAROL NIEMANN; PAUL A. NIEMANN; BRIAN M. NIEMANN, and WAL-MART STORES, INC., Defendants, -AND- RUSHMORE PHOTO &amp; GIFTS, INC.; JRE, INC., CAROL NIEMANN; PAUL A. NIEMANN; and BRIAN M. NIEMANN, Counterclaimants, vs. STURGIS MOTORCYCLE RALLY, INC., Counterclaim Defendant.</p>	<p>CIV. 11-5052-JLV ORDER</p>
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Prior to the commencement of trial plaintiff filed a motion for default judgment against defendant Wal-Mart Stores, Inc., or in the alternative for an adverse instruction against Wal-Mart Stores, Inc. (Docket 204). The court considered the arguments of counsel on plaintiff's motion. The court invited plaintiff, if appropriate, to re-urge the motion during the course of trial. At trial Howard Sallerson and Jackson Smith, Wal-Mart's employees, testified at the request of and without further objection by the plaintiff. During the course of

settlement of jury instructions plaintiff did not renew the motion for an adverse instruction. Accordingly, no good cause shown, it is

ORDERED that plaintiff's motion (Docket 204) is denied.

Dated October 30, 2015.

BY THE COURT:

/s/ *Jeffrey L. Viken*

JEFFREY L. VIKEN  
CHIEF JUDGE